IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.3.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MS.JUSTICE R.N.MANJULA

Tax Case Appeal No.636 of 2019

M/s.Madras Engineering Industries
P. Ltd., Chennai-28 ...Appellant

Vs

The Income Tax Officer, Corporate
Ward 4(2), Chennai ...Respondent

Prayer: Tax Case Appeal under Section 260A of the Income Tax Act, 1961 against the order dated 16.11.2018 passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai made in I.T.A.No.2320/Chny/2017 for the assessment year 2014-15 preferred against the order of the Office of the Commissioner of Income Tax (Appeals)-8, Room No. 222, Aayakar Bhavan, Main Building, II Floor, No.121, Mahathma Gandhi Road, Nungambakkam, Chennai 600 034 made in I.T.A.No.298/2016-2017, Date of order: 18.08.2017, PAN: AACM4509P and year of Assessment 2014-2015.

For Appellant : Mr.A.S.Sriraman

Judgment was delivered by T.S.SIVAGNANAM,J

This appeal has been filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 16.11.2018 made in I.T.A.No.2320/Chny/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench ('the Tribunal' for brevity) for the assessment year 2014-15.

2. The assessee has filed this appeal by raising the following substantial questions of law :

> "i. Whether the Income Tax Appellate Tribunal is correct in law in sustaining the disallowance of rent payments made to a Director based on a valid and enforceable agreement for rent of a house property owned by the said Director, given the fact that the appellant company was bound to provide a

rent free accommodation to such Director under the contract of employment which was acted upon between the parties by taking the house property of the employee on lease, which action was also permitted in law by recording perverse findings both on facts and in law ?

ii. Whether the Income Tax Appellate Tribunal is correct in law in accepting the stand taken by the Original Authority/Assessing Officer to disregard the transaction entered by the appellant company under Section 40A(2)(a) of the Act with regard to payment of rent to a Director in respect of premises leased from such Director and treating such payment as only a payment of remuneration in another form even though the payment of rent is supported by valid and enforceable agreement?

iii. Whether the Income Tax Appellate Tribunal is correct in law in sustaining the disallowance of payment of rent to the Director even though neither the Original Authority/ Assessing Officer nor the Appellate Authority have not questioned the fair market value of the rent paid to the property leased to the appellant company?

iv. Whether the Income Tax Appellate Tribunal is correct in law in sustaining the disallowance made by the Original Authority/ Assessing Officer with regard to rent paid to Mr.Sriram Sivaram without considering the fact that such payments on similar facts and circumstances have been allowed by the Original Authority/Assessing Officer in the earlier assessment years during the assessments made u/s 143(3) of the Act and thereby not following the principle of consistency? and

v. Whether the Income Tax Appellate Tribunal is correct in law in sustaining the aforesaid disallowance made by the Original Authority/Assessing Officer under Section 40A(2)(a) of the Act even though there was no loss of revenue given the fact that the recipients had included the said sum in his taxable income and was taxed at the maximum marginal rate?”

3. We have heard Mr.A.S.Sriraman, learned counsel for the appellant/assessee.

4. The learned counsel for the assessee submits that the assessee already filed the declaration/undertaking under the Vivad Se Vishwas Scheme and orders were passed on 09.12.2020 in Form No.3.

5. In the light of the subsequent event, the assessee is given liberty to restore this appeal in the event the ultimate decision taken on the declaration filed by the assessee under Section 4 of the said Act is not in favour of the assessee. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any application to be filed for condonation of delay in restoration of the appeal and on such request made by the assessee by filing a miscellaneous petition for restoration, the Registry shall place such petition before the appropriate Division Bench for orders.

6. The tax case appeal stands disposed of with the aforementioned liberty. Consequently, the substantial questions of law raised are left open.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
1.The Income Tax Appellate Tribunal, 'C' Bench, Chennai.

2.The Income Tax Officer, Corporate Ward 4(2), Chennai-34.

3.The Commissioner of Income Tax (Appeals)-8
Room No. 222, Aayakar Bhavan
Main Building, II Floor
No.121 Mahathma Gandhi Road
Nungambakkam, Chennai 600 034.

Copy to
The Assistant Registrar
Appeal Examiner Main Section
High Court, Madras 104.

+1 CC to Mr.S. Sridhar, Advocate sr 20975.

TCA.No.636 of 2019

JPII(CO)
SP(14/06/2021)